

IC 28-6.1-6

Chapter 6. General Powers of a Savings Bank

IC 28-6.1-6-1

Discounting, negotiating, selling, and guaranteeing evidences of debt

Sec. 1. A savings bank may discount, negotiate, sell, and guarantee promissory notes, bonds, drafts, acceptances, bills of exchange, and other evidences of debt.

As added by P.L.42-1993, SEC.72.

IC 28-6.1-6-2

Buying and selling exchange, coin, and bullion

Sec. 2. A savings bank may buy and sell exchange, coin, and bullion.

As added by P.L.42-1993, SEC.72.

IC 28-6.1-6-3

Loaning money

Sec. 3. A savings bank may loan money.

As added by P.L.42-1993, SEC.72.

IC 28-6.1-6-4

Borrowing money

Sec. 4. A savings bank may borrow money and do the following:

- (1) Issue notes, bonds, or debentures to evidence that borrowing.
- (2) Mortgage, pledge, or hypothecate any of its assets to secure the repayment of that money.

As added by P.L.42-1993, SEC.72.

IC 28-6.1-6-5

Receiving savings and demand deposits

Sec. 5. (a) A savings bank may receive savings deposits and, subject to subsection (b), demand deposits.

(b) If a savings bank accepts demand deposits, the savings bank shall establish and maintain the reserve balances prescribed by law applicable to banks and trust companies or by any general rules of the department, when the law, rules, and regulations apply to all banks and trust companies alike.

As added by P.L.42-1993, SEC.72.

IC 28-6.1-6-6

Receiving deposits of securities and personal property

Sec. 6. A savings bank may receive deposits of securities or other personal property from any person or corporation, upon terms agreed upon by the parties.

As added by P.L.42-1993, SEC.72.

IC 28-6.1-6-7

Contracting for and receiving highest rate of interest

Sec. 7. A savings bank may contract for and receive on loans and discounts the highest rate of interest allowed to be contracted for and received by individuals.

As added by P.L.42-1993, SEC.72.

IC 28-6.1-6-8**Accepting drafts for future payment; issuing letters of credit**

Sec. 8. A savings bank may accept for future payment drafts drawn upon the savings bank by its customers and may issue letters of credit with a specific expiration date authorizing the holders of the letters to draw drafts upon the savings bank or its correspondents at sight or on time.

As added by P.L.42-1993, SEC.72.

IC 28-6.1-6-9**Exercising general banking powers; issuing money**

Sec. 9. A savings bank may exercise all the powers incidental, proper, necessary, or usual in carrying on a general banking business, but it may not issue bills to circulate as money.

As added by P.L.42-1993, SEC.72.

IC 28-6.1-6-10**Receiving deposits of state and federal public funds**

Sec. 10. (a) A savings bank may receive deposits of state and federal public funds:

- (1) on the same terms and conditions;
- (2) with the same rights and privileges; and
- (3) subject to the same duties and obligations;

as provided by law for banks of discount and deposit, trust companies, and other financial institutions.

(b) The power under subsection (a) includes the right to pledge securities or other assets for the repayment of the deposits if the pledge is required by law or applicable regulation.

As added by P.L.42-1993, SEC.72.

IC 28-6.1-6-11**Acting as fiscal or transfer agent of government bodies**

Sec. 11. A savings bank may act as a fiscal or transfer agent of the United States or of any state, municipality, body politic or corporate, and in that capacity receive and disburse money.

As added by P.L.42-1993, SEC.72.

IC 28-6.1-6-12**Transferring, registering, and countersigning certificates of stock, bonds, and other evidences of indebtedness**

Sec. 12. A savings bank may transfer, register, and countersign certificates of stock, bonds, or other evidence of indebtedness and authenticate and certify the bonds and certificates of indebtedness.

As added by P.L.42-1993, SEC.72.

IC 28-6.1-6-13

Acting as agent to buy and sell transportation

Sec. 13. A savings bank may act as an agent to buy and sell domestic and foreign transportation.

As added by P.L.42-1993, SEC.72.

IC 28-6.1-6-14

Soliciting and writing insurance; prohibitions

Sec. 14. (a) A savings bank may solicit and write insurance as an insurance producer or a broker for any insurance company authorized to do business in the state or states where the insurance producer or broker operates.

(b) A savings bank or its affiliate (as defined in IC 28-6.2-1-4) may act as an insurance producer for the sale of any life insurance policy or annuity contract issued by a life insurance company (as defined in IC 27-1-2-3) authorized to do business in the state or states where the insurance producer operates.

(c) A savings bank or its affiliate that acts as an insurance producer for the sale of a life insurance policy or an annuity contract under subsection (b):

(1) is subject to all requirements of IC 27 with respect to the insurance producer's activity in Indiana; and

(2) must comply with the disclosure requirements under IC 27-1-38.

(d) A savings bank or its affiliate may not condition:

(1) an extension of credit;

(2) a lease or sale of real or personal property;

(3) the performance of a service; or

(4) the amount charged for:

(A) extending credit;

(B) leasing or selling real or personal property; or

(C) performing services;

upon a person's purchase of a life insurance policy or an annuity contract from the savings bank or its affiliate.

(e) This section does not prohibit a savings bank or its affiliate from requiring that a person, as a condition to a transaction, obtain a life insurance policy from an insurance company acceptable to the savings bank or its affiliate.

As added by P.L.42-1993, SEC.72. Amended by P.L.262-1995, SEC.67; P.L.188-1997, SEC.8; P.L.63-2001, SEC.14 and P.L.134-2001, SEC.16; P.L.130-2002, SEC.7; P.L.178-2003, SEC.92.

IC 28-6.1-6-15

Acting as attorney

Sec. 15. A savings bank may act as an attorney in fact or agent of any foreign or domestic person or corporation for any lawful purpose.

As added by P.L.42-1993, SEC.72.

IC 28-6.1-6-16**Receiving personal property for deposit**

Sec. 16. (a) A savings bank may do the following:

- (1) Receive upon deposit for safekeeping or in escrow, money, bonds, mortgages, jewelry, plate, stock, securities, valuable papers of any kind, and other personal property.
- (2) Lease receptacles for safe deposits of personal property.

(b) The savings bank may prescribe terms and conditions not inconsistent with this section for the receiving or leasing authorized by subsection (a).

(c) A savings bank or any of the savings bank's assets are not liable for the value of any property received by the savings bank under the power conferred by this section or for damages for the loss, theft, or misappropriation of the property.

(d) A savings bank may procure and carry insurance for the benefit of the owners of property received by the savings bank under the power conferred by this section.

As added by P.L.42-1993, SEC.72.

IC 28-6.1-6-17**Acting under court appointment**

Sec. 17. A savings bank may act under court appointment as any of the following:

- (1) Commissioner for the sale of real property.
- (2) Guardian of the person or estate of an incapacitated person (as defined in IC 29-3-1-7.5), or in other instances where a guardian may be appointed.
- (3) Trustee, receiver, conservator, or committee of the property or estate of a person or corporation in insolvency or bankruptcy proceedings.
- (4) Depository of money paid into court, whether for the benefit of a person or corporation.
- (5) In any other fiduciary capacity.

As added by P.L.42-1993, SEC.72.

IC 28-6.1-6-18**Acting in probate**

Sec. 18. (a) A savings bank may do any of the following:

- (1) Act as the personal representative of the estate of a deceased individual.
- (2) Act as the trustee under the last will and testament of a deceased individual.
- (3) Act under court appointment as personal representative or trustee under a last will and testament, when the savings bank is the successor to a corporation appointed in the last will and testament.

(b) When an individual is appointed with a savings bank as receiver, guardian, commissioner, trustee, or personal representative, the individual's appointment may be under the limitation of powers and upon the terms and conditions of possession and control of the

trust assets by the savings bank, or otherwise. If the individual is required to give bond or security, the bond or security shall be as:

- (1) the individual and the savings bank agree; and
- (2) approved by the court or judge making the appointment.

(c) When an individual who is appointed in a fiduciary capacity is required to give a bond or security for the faithful performance of duties, the savings bank may guarantee or become surety for the individual if:

- (1) the savings bank takes possession and control of the assets involved; and
- (2) approved by the court having jurisdiction of the fiduciary.

As added by P.L.42-1993, SEC.72.

IC 28-6.1-6-19

Acting as guardian, trustee, or personal representative

Sec. 19. (a) A savings bank may act under court appointment as guardian, trustee, or personal representative on the application or consent of a person acting or entitled to act as such and in the place of that person.

(b) An appointment under subsection (a) may be made:

- (1) upon notice required by law to the persons interested in the estate or fund; and
- (2) with the consent of the principal beneficiaries or other persons interested in the estate or fund;

as the court making the appointment considers proper.

As added by P.L.42-1993, SEC.72.

IC 28-6.1-6-20

Taking, accepting, and executing trusts

Sec. 20. A savings bank may do any of the following:

(1) Take, accept, and execute a legal trust, duties, and powers in regard to:

(A) the holding, management, sale, or disposition of property; and

(B) the rents and profits from that property;

that are granted or confided to the savings bank by any authority.

(2) Take, accept, and execute a trust and any powers that may be conferred upon the savings bank by any authority.

(3) Generally execute legal trusts of every description.

As added by P.L.42-1993, SEC.72.

IC 28-6.1-6-21

Acting in fiduciary capacity

Sec. 21. (a) Except as otherwise provided in this article, a savings bank may act:

- (1) in a fiduciary capacity permitted by this article; and
- (2) as commissioner for the sale of real estate;

without bond or other security.

(b) When a savings bank is acting in a fiduciary capacity, the

savings bank may administer oaths attested by the signature of the savings bank's secretary or cashier and the savings bank's seal in the same fashion as an individual acting in the same capacity may administer oaths.

(c) The court having jurisdiction of the fiduciary may require a bond or other security at any time. Upon failure of the savings bank to give a bond or security as required, the court may remove the savings bank and revoke the savings bank's appointment.

(d) A savings bank may not pledge or deposit any of its assets as a condition to the exercise of any of its powers as a fiduciary.

As added by P.L.42-1993, SEC.72.

IC 28-6.1-6-22

Receiving fees, commissions, gifts, and things of value

Sec. 22. Except as otherwise provided by law, an officer, a trustee, an employee, an agent, or an attorney of a savings bank commits a Class A misdemeanor if the individual stipulates for, receives, or agrees to receive a fee, commission, gift, or thing of value from any person for the purpose of procuring or attempting to procure for any person:

(1) a loan from a savings bank; or

(2) the purchase or discount of any paper, note, draft, check, or bill of exchange by a savings bank.

As added by P.L.42-1993, SEC.72.

IC 28-6.1-6-22.5

Profit or commission on sales or purchases; necessity of specific authorization; surcharge

Sec. 22.5. (a) Except for interest at the legal rate on a loan or advancement, a savings bank may not, directly or indirectly, receive a profit or commission from the sale to or purchase from an estate, a guardianship, or a trust of which the savings bank is the fiduciary unless the profit or commission is authorized by agreement with the creator of the trust or a court with jurisdiction over the estate, guardianship, or trust.

(b) A savings bank that receives a profit or commission in violation of subsection (a) shall be surcharged an amount equal to the profit or commission. In addition, a court with jurisdiction over the estate, guardianship, or trust may remove the savings bank as the fiduciary.

As added by P.L.192-2003, SEC.5.

IC 28-6.1-6-23

Requesting mergers, consolidations, and joinings

Sec. 23. Notwithstanding any other provision of this article, a savings bank may request under IC 28-1-7-25 or IC 28-3-2-10 that the department order its merger, consolidation, or other joining with a bank or trust company organized under IC 28-1 or with a national banking association.

As added by P.L.42-1993, SEC.72.

IC 28-6.1-6-24

**Request to exercise rights and privileges granted to national banks;
appeal**

Sec. 24. (a) As used in this section, "rights and privileges" means the power to:

- (1) create;
- (2) deliver;
- (3) acquire; or
- (4) sell;

a product, a service, or an investment that is available to or offered by national banks domiciled in Indiana.

(b) Subject to the conditions set forth in this section, a savings bank may exercise the rights and privileges that are or may be granted to national banks domiciled in Indiana.

(c) A savings bank that intends to exercise any rights and privileges that are:

- (1) granted to national banks; but
- (2) not authorized for a savings bank under the Indiana Code (except for this section) or any rule adopted under the Indiana Code;

shall submit a letter to the department describing in detail the requested rights and privileges granted to national banks that the savings bank intends to exercise. If available, copies of relevant federal law, regulations, and interpretive letters must be attached to the letter submitted by the company.

(d) The department shall promptly notify the requesting savings bank of the department's receipt of the letter submitted under subsection (c). Except as provided in subsection (f), the savings bank may exercise the requested rights and privileges sixty (60) days after the date on which the department receives the letter unless otherwise notified by the department.

(e) The department, through its members, may prohibit the savings bank from exercising the requested rights and privileges only if the members find that:

- (1) national banks domiciled in Indiana do not possess the requested rights and privileges; or
- (2) the exercise of the requested rights and privileges by the savings bank would adversely affect the safety and soundness of the savings bank.

(f) The sixty (60) day period referred to in subsection (c) may be extended by the department based on a determination that the savings bank's letter raised issues requiring additional information or additional time for analysis. If the sixty (60) day period is extended under this subsection, the savings bank may exercise the requested rights and privileges only if the savings bank receives prior written approval from the department. However:

- (1) the members must:
 - (A) approve or deny the requested rights and privileges; or
 - (B) convene a hearing;
- not later than sixty (60) days after the department receives the

savings bank's letter; and

(2) if a hearing is convened, the members must approve or deny the requested rights and privileges not later than sixty (60) days after the hearing is concluded.

(g) The exercise of rights and privileges by a savings bank in compliance with and in the manner authorized by this section is not a violation of any provision of the Indiana Code or rules adopted under IC 4-22-2.

(h) Whenever, in compliance with this section, a savings bank exercises rights and privileges granted to national banks domiciled in Indiana, all savings banks may exercise the same rights and privileges if the department by order determines that the exercise of the rights and privileges by all savings banks would not adversely affect their safety and soundness.

(i) If the department denies the request of a savings bank under this section to exercise any rights and privileges that are granted to national banks, the savings bank may appeal the decision of the department to the circuit court with jurisdiction in the county in which the principal office of the savings bank is located. In an appeal under this section, the court shall determine the matter de novo.

As added by P.L.194-1997, SEC.5.

IC 28-6.1-6-25

Requirement to provide property tax information in certain transactions

Sec. 25. With respect to a residential real property financing or refinancing, a savings bank shall comply with IC 6-1.1-12-43.

As added by P.L.64-2004, SEC.31.